

May 16, 2005

ADVISORY NOTICE

We have received (and are investigating) complaints and inquiries regarding the following situations:

(1) Permittees being pressured by registered vendors and/or licensed and unlicensed distributors to purchase 'Point of Sale' pull-tab tracking systems (POS) for use by registered vendors.

Permittees and Vendors who are parties to the transaction described at (1) above should review their compliance with the following statutes and regulations:

AS 05.15.160(a)(1) The only expenses that may be incurred or paid in connection with the operation of an activity under a permit issued under this chapter are bona fide expenses reasonably necessary for goods, wares, and merchandise necessary for the operation of the activity.

AS 05.15.188(h) "If a permittee contracts with a vendor under (a) of this section, the contract must provide that the permittee shall receive no less than 70 percent of the ideal net."

15 AAC 160.954(b)(2) "A person regulated under this chapter has a prohibited conflict of interest if the person or related party is involved in any of the following activities: providing a loan or gifts with a total fair market value of more than \$100 per year, from a permittee to an operator, distributor or registered vendor."

15 AAC 160.954(d)(2) "It is a prohibited conflict of interest for a registered vendor to employ or have a contract with a permittee with whom the registered vendor has a gaming contract."

Department Guidance

It is not reasonable or necessary for a permittee to pay for a POS system for use by a vendor. The permittee receives its share (70%) of the ideal net from the vendor upon delivery of the game. It is the vendor's responsibility to sell, and account for, the pull-tabs it has purchased from the permittee. A vendor that wants to acquire a POS can purchase the system from its share (30%) of the ideal net or from its other funds.

Any arrangement between a permittee and vendor that provides for a permittee paying the expenses of a vendor results in the permittee receiving less than 70% of the ideal net, and this is in violation of AS 05.15.188(h) and 15 AAC 160.954(d)(2).

Any arrangement where a permittee loans or gives equipment to a registered vendor with a fair market value of more than \$100 a year, is a violation of 15 AAC 160.954(b)(2).

If your organization has purchased a POS system that has been given or loaned to a vendor, you should contact the department in writing within two weeks of the date of this letter.

(2) POS systems sold by some distributors contain software that prevents, or makes it more difficult, to enter pull-tab information on pull-tabs purchased from other distributors.

If your organization is considering the purchase of a POS system for its self-directed activities, it would be advisable to require written representation from the seller regarding the capabilities and limitations of the machine in respect to pull-tab product purchased from any of Alaska's ten licensed pull-tab distributors.